

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Office

DATE: **December 2, 2003**

RE: **Analysis Report**

Balances As Of:  
**11/27/02**

**11/25/03**

<u>GSD 4% RESERVE FUND</u>	\$18,262,763	\$4,665,927
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CONTINGENCY ACCOUNTS

GSD	\$50,000	\$50,000
USD	\$50,000	\$50,000

GENERAL FUND

GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable

GENERAL PURPOSE  
SCHOOL FUND

Unavailable	Unavailable
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**ORDINANCE NO. BL2003-36** (GILMORE) – This ordinance, as amended, amends and extends the existing franchise agreement with Nashville Gas Company, due to expire on May 2, 2004. Nashville Gas has held a franchise to sell and transport natural gas within the area of the Metropolitan Government since 1912. The franchise agreement was extended in 1950 and again in 1974. This franchise extension was negotiated on behalf of the Metropolitan Government by the legal department and Hawkins, Delafield and Wood, a firm with national experience in municipal natural gas franchise agreements.

The renewal agreement provides that Nashville Gas will pay a one time up-front fee of \$262,200. Nashville Gas would then be obligated to pay an annual fee of \$62,200 through 2013, increased for inflation at the rate of 3.5% per annum. Nashville Gas will also pay to the Metropolitan Government an annual franchise fee of 5% of its gross receipts from the sale, transportation, and distribution of gas. This 5% annual franchise fee will remain in effect throughout the duration of the term, unless the Metropolitan Government grants a franchise to another company to sell, transport, and distribute gas.

This renewal agreement contains additional and amended provisions not included in the current agreement. Nashville Gas will be required to comply with all legal and regulatory requirements, including those of the historical commission. In the event Nashville Gas's parent company, Piedmont Gas, has their bond rating downgraded to BBB+ or lower, Nashville Gas will be required to deliver a performance bond to the Metropolitan Government in the amount of \$2,500,000. Additionally, Nashville Gas must give notice to customers prior to performing work on customer property. Any damage that is done to the customer's property must be repaired by Nashville Gas. Nashville Gas and Metro are contractually obligated to appoint an arbitrator knowledgeable in the field of gas utilities and personal liability who shall be available to arbitrate disputes between the company and customers, should the customer choose to use such arbitration method. The costs of the arbitrator are to be paid by Nashville Gas. Finally, the fines provision for the failure of Nashville Gas to comply with the provisions of this ordinance is increased from not less than \$10.00 nor more than \$50.00, to not less than \$200.00 nor more than \$1,000.00 for each offense.

The term of the renewal franchise agreement is 30 years, which is similar to the term of the existing agreement. However, after the first ten years of the term, the agreement will terminate unless the Council approves extending the agreement by Resolution for an additional five-year period. The agreement would then be extended three additional five-year periods upon adoption of a similar resolution every five years.

Section 17.02 of the Metropolitan Charter requires that extensions and amendments to franchise agreements for public utilities be approved by Ordinance enacted by the Council and then ratified by a 3/5 majority of the electors voting in the referendum election. The referendum is set to be held at the February Presidential primary, which will require that this ordinance be adopted on third reading at the December 2, 2003 council meeting so that proper notice will be given. The Charter also requires that a public hearing be held on this ordinance.

The Council Office would point out that the rates Nashville Gas customers pay are regulated by the Tennessee Regulatory Authority. Thus, the Metropolitan Government has no control over such rates, nor does it have the authority to negotiate regarding the rate structure.

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**ORDINANCE NO. BL2003-36** (continued)

The Council Office is of the opinion that it is in the best interest of the Metropolitan Government that the franchise agreement with Nashville Gas be extended according to the terms set out in this ordinance. The Council Office has obtained information regarding the fiscal impact that Nashville Gas has on the Metropolitan Government. Nashville Gas pays approximately \$3.6 million in property taxes to the Metropolitan Government annually, in addition to the 5% franchise fee, which equates to approximately \$9,000,000 annually. This 5% franchise fee requirement is actually higher than the standard franchise fee in the industry. Many such franchise fees across the country are set by state law at 3%. In fact, the 5% fee paid by Nashville Gas is higher than any other such fee paid by Piedmont Gas, the parent company of Nashville Gas.

**- RESOLUTIONS -**

**RESOLUTION NO. RS2003-92** (GILMORE) – This resolution determines \$27,683.25 to be the expense of holding the special election to be held on February 10, 2004, on the question of extending the license and franchise of the Nashville Gas Company. Ordinance No. BL2003-36, on public hearing and third reading, amends and extends the existing franchise agreement with Nashville Gas Company. The Metropolitan Charter requires that a referendum election be held for such an extension and that it be approved by 60% of the voters voting in the referendum election. The Charter further requires that the expense of holding the election be determined prior to submitting the question for special election and that the grantee of the franchise pay this amount. The election commission has determined that the cost for holding this election on February 10, 2004, will be \$27,683.25 and Nashville Gas Company will pay this amount to the Metropolitan treasurer.

**RESOLUTION NO. RS2003-93** (GILMORE) – This resolution approves an annual grant in the amount of \$30,114 from the Alcohol and Drug Council of Middle Tennessee, Inc. (ADC) to the juvenile court for a community/juvenile court liaison project. The term of the grant is from July 1, 2003, through June 30, 2004, with a possible one-year extension at the discretion of ADC. The purpose of the grant is to provide personnel to act as liaisons between neighborhood families and their children, the juvenile court, the SISTER program at Meharry, and Metro schools. The employees will work to provide “non-traditional, personalized relationship building.” Office space at 83 University Court will be furnished by the juvenile court.

**RESOLUTION NO. RS2003-94** (GILMORE) – This resolution approves a fourth amendment to a lease agreement between the Metropolitan Government and W.S. Holdings, L.P., for the lease of office space in the Washington Square building. Metro is currently leasing 40,222 square feet of space in the Washington Square building for the district attorney's office. The current lease agreement is set to expire on November 30, 2003, but contains an option provision for a five-year extension of the lease. Metro desires to exercise its option to lease the space for an additional five years for the benefit of the district attorney's office.

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**RESOLUTION NO. RS2003-94** (continued)

The new term of the lease will be from December 1, 2003, through November 30, 2008. The base rent for the additional term will be \$12.50 per square foot for the first three years (\$502,775 annually) and \$13.50 a square foot thereafter (\$542,997 annually). As part of this lease extension, W.S. Holdings will make several improvements to the premises, including replacement of the carpet and repainting in the public areas, replacement of the breakroom floor, replacement of the wall covering in the reception area, and installation of two unisex ADA compliant restrooms. W.S. Holdings will also make certain other modifications to the premises to make them ADA compliant. Metro will also be allowed \$13 per rentable square foot of office space in Suite 424 to make improvements requested by Metro. Metro will have two parking spaces in the basement at a cost of \$125 per month and one additional parking space across the street at a cost of \$125 per month. Metro will also have access to a storage bin in the basement at a cost of \$85 per month. Metro has the right to terminate this lease upon six months written notice.

The planning commission has not yet considered this lease extension.

**RESOLUTION NO. RS2003-95** (GILMORE) – This resolution approves a fifth amendment to a grant agreement between the state department of correction and the state trial courts to implement a supervision and day reporting center. The program is to provide an alternate punishment program for non-violent offenders. The grant was approved in 2001, and has been subsequently amended four times to modify the amount of the grant. This resolution amends the grant agreement to increase the grant award in the amount of \$10,864 for a total grant award of \$2,546,826.

**RESOLUTION NO. RS2003-96** (NEIGHBORS & GILMORE) – This resolution approves an annual grant agreement in the amount of \$1,597,400 from the state department of health to the Metropolitan health department to fund the Women, Infants and Children (WIC) program in Metro. These federal pass-through funds are used to fund the salaries of the Metro health department personnel that implement the WIC program in Nashville to provide nutritious food to women infants and children. The term of the grant is from October 1, 2003, through September 30, 2004.

**RESOLUTION NO. RS2003-97** (NEIGHBORS & GILMORE) – This resolution approves a grant in the amount of \$486,141 from the state department of health and human services to the Metro health department for substance abuse and mental health services. The term of the grant is from September 30, 2003, through September 29, 2004. These program funds are federal pass-through funds to assist Metro in expanding its capacity to effectively diagnose substance abuse and mental health problems.

**RESOLUTION NO. RS2003-98** (NEIGHBORS & GILMORE) – This resolution approves a grant in the amount of \$40,000 from the Susan G. Komen Breast Cancer Foundation to the Metropolitan board of health to provide outreach regarding breast cancer and mammograms to Bridges to Care participants. The term of the grant is from April 1, 2003, through March 31, 2004. The grant funds will be used for a program to target women forty years of age or older in the Hispanic and African-American community. Of the funds, the amount of \$34,800 will be used for outpatient breast cancer screenings, \$2,154 will be used for the development of program brochures and educational materials, and the remaining \$3,046 will be used for indirect costs.

**RESOLUTION NO. RS2003-99** (NEIGHBORS & GILMORE) – This resolution approves an amendment to a grant from the U.S. department of health and human services to the Metropolitan health department to provide healthcare for the homeless in Nashville. The original grant was in the amount of \$617,173 and was to expire October 31, 2003. This resolution extends the term of the grant to March 31, 2004, and increases the grant award by \$265,642 for a total award of \$903,182.

**RESOLUTION NO. RS2003-100** (NEIGHBORS & GILMORE) – This resolution approves a contract between the Metropolitan board of health and the Matthew Walker Comprehensive Health Center Inc., permitting Matthew Walker to compensate the health department for its assistance in Matthew Walker's study to reduce cardiovascular disease and diabetes among African Americans. The term of this contract is from September 30, 2003, through September 30, 2004, with a possible one-year extension.

Pursuant to this contract, Matthew Walker agrees to pay a total of \$154,696 to the health department to fund a percentage of the salaries for certain health department personnel. Under this contract, the health department will conduct telephone surveys and manage data received. This is part of a program entitled Nashville REACH 2010 Demonstration Project, and is an attempt to collect and manage data to determine a plan to reduce cardiovascular disease and diabetes among African Americans in Nashville.

**RESOLUTION NO. RS2003-101** (NEIGHBORS & GILMORE) – This resolution approves a grant in the amount of \$529,601 from the U.S. department of health and human services to the Metropolitan board of health for a community access program. The term of the grant is from September 1, 2003, through August 31, 2004. These grant funds will be used to improve and expand access to medical services, substance abuse services, mental health services, and dental services for residents of Davidson County who are uninsured.

**RESOLUTION NO. RS2003-102** (NEIGHBORS) – This resolution approves an agreement between the Metropolitan Government and Austin Peay State University (APSU) to provide public health training for student nurses. The Council adopted similar agreements with Belmont, Aquinas, and Vanderbilt at the November 18, 2003, Council meeting. Pursuant to this agreement, the Metro health department will provide clinical training experiences to nursing students as part of their public health training. Students will not receive any compensation and there is no cost to the Metropolitan Government for providing this service. Metro has participated in similar clinical experience programs in the past. The term of the agreement is from July 1, 2003, through June 30, 2008. APSU will be required to provide assurance that the students are covered by health insurance and to designate a staff person to serve as a coordinator of the program and to serve as a liaison between APSU and Metro. APSU will also be required to maintain professional liability insurance for its students.

**RESOLUTION NOS. RS2003-103, RS2003-104 & RS2003-105** (GILMORE & KERSTETTER) – Three resolutions approve grants from the state department of labor and workforce development, under the provisions of the Workforce Development Act of 1998, to provide funding for the Nashville career advancement center (NCAC) to prepare adults, (continued on next page)

**RESOLUTION NOS. RS2003-103, RS2003-104 & RS2003-105** (continued)

youth, and dislocated workers for re-entry into the labor force. These grants are essentially federal pass-through funds that provide operating funds for NCAC. The terms of these grants are from October 1, 2003, through June 30, 2005.

**Resolution No. RS2003-103** approves a grant in the amount of \$1,043,970.38 for employment and training services to dislocated workers.

**Resolution No. RS2003-104** approves a grant in the amount of \$216,627.55 for administration and operating costs to establish programs and deliver services to prepare adults, youth, and dislocated workers for re-entry into the labor force.

**Resolution No. RS2003-105** approves a grant in the amount of \$905,677.58 to establish programs to prepare adults for re-entry into the labor force and to offer training to those facing serious barriers to employment.

**RESOLUTION NO. RS2003-106** (GILMORE & KERSTETTER) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide Families First support services. The services provided as part of this grant include transportation, vehicle repairs, dental assistance, optical services, and trade licenses. The original amount of the grant was \$1,153,066.97. This resolution reduces the amount of the grant to \$1,128,736.25.

**RESOLUTION NOS. RS2003-107 & RS2003-108** (GILMORE) – These two resolutions accept compromise and settlement of claims of the Metropolitan Government for damages to Metro vehicles in motor vehicle accidents. Both of these settlements are for property damage only.

**RS2003-107** settles Metro's claim against Toshiba D. Gore in the amount of \$9,625.00. This claim is the result of an accident which occurred on Dickerson Pike when Ms. Gore pulled in front of a police vehicle. Our officer was injured as a result of this accident, however, this settlement is for the property damage only to our police car.

**RS2003-108** settles Metro's claim against Beau Hudson in the amount of \$9,352.08. This claim is the result of an accident which occurred when Mr. Hudson disregarded a traffic light and drove into a fire department emergency ambulance. Our employee was not injured in this accident and the settlement amount is for damage to our vehicle.

**RESOLUTION NO. RS2003-109** (MCCLENDON & GILMORE) – This resolution authorizes the director of public property to acquire by negotiation twelve parcels of property on Wimpole Drive. The purpose of the acquisition of these properties is to prevent any future flooding losses on this property and is part of the Wimpole Flood Mitigation Project which has previously been funded from stormwater funds.

The Metro Code permits the director of public property to negotiate purchases of property and to obtain an option to sell at a fixed price, subject to approval by the Metro Council by resolution. Otherwise, authorization to negotiate or condemn property requires an (continued on next page)

**RESOLUTION NO. RS2003-109** (continued)

ordinance adopted by the Council. Therefore, this resolution is not necessary. The director of public property already has this authority. If the director of public property has already obtained the options, this resolution could be amended to approve such options to acquire these properties.

**RESOLUTION NO. RS2003-110** (WALLACE) – This resolution authorizes Empire Sign Company, on behalf of Germantown Café, to install, construct and maintain six awnings over the public right-of-way at 1200 – 5<sup>th</sup> Avenue North. Germantown Café has agreed to indemnify the Metropolitan Government for any claims arising from the installation of the awnings, and will be required to furnish a certificate of public liability insurance in the amount of \$300,000 naming Metro as an insured party.

This resolution has been approved by the planning commission.

**RESOLUTION NO. RS2003-111** (HAUSSER) – This resolution authorizes Wayside Construction Company, on behalf of property owners Adam Goldberger, Eli Goldberger, Jesse Goldberger, Jo Goldberger, David Lee Gorden, and Jed A. Gorden, to install, construct and maintain an awning over the public right-of-way at 1517, 1519 and 1521 Dallas Avenue, at the southeast corner of Dallas Avenue and Belmont Boulevard. The property owners have agreed to indemnify the Metropolitan Government for any claims arising from the installation of the awnings, and will be required to furnish a certificate of public liability insurance in the amount of \$300,000 naming Metro as an insured party.

This resolution has been approved by the planning commission.

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**- BILLS ON SECOND READING -**

**ORDINANCE NO. BL2003-1** (Wallace) This ordinance amends the beer permit requirement provisions in the Metro Code of Laws to exempt certain restaurants that already have a state on-premises liquor consumption license from Metro's minimum distance requirements to obtain a beer permit. The Code currently prevents a beer permit from being issued to an establishment located within 100 feet from a church, school, park, daycare, or one or two family residence. However, the Council in July of 2003 enacted Substitute Ordinance No. BL2003-1353 establishing an exemption from the minimum distance requirements for restaurants located on property subject to a planned unit development (PUD) that already have a state on-premises liquor consumption license. Substitute Ordinance No. BL2003-1353 was essentially a compromise bill in an effort to take a step toward enabling restaurants with a state liquor license to obtain an on-sale beer permit without meeting the established distance requirements in the Code. Pursuant to state law, the Tennessee alcoholic beverage commission can take the applicant's location into consideration when determining whether to grant a license for on-premises consumption, but no set distance requirements are included in the state law. This ordinance would provide that restaurants possessing a valid license issued by the state alcoholic beverage commission for on-premises liquor consumption shall have 180 days from the enactment of this ordinance to apply to the beer board for a permit and be exempted from the minimum distance requirements. After the 180 day window of opportunity, any restaurant possessing a valid state on-premises liquor consumption license desiring to be exempt from the minimum distance requirements could only do so if the Council adopts a resolution approving the exemption. The Council would have 60 days from the date that the Council and the district councilmember are notified by the beer board that such an application requesting an exemption has been filed in which to adopt such a resolution. Failure by the Council to approve or disapprove within 60 days would be deemed an approval by the Council. This is similar to the Code provisions regarding the Council's approval of certain special exception uses such as landfills and waste transfer stations.

**ORDINANCE NO. BL2003-3** (GILMORE) - This ordinance makes applicable to the Metropolitan Government the provisions of Part 7 of Chapter 211 of Title 68 of Tennessee Code Annotated (commonly referred to as the "Jackson Law") to require local approval of landfills, solid waste disposal facilities, and solid waste processing facilities prior to construction of such facilities and prior to an issuance of a permit by the state department of environment and conservation. The Jackson Law was enacted principally to enable smaller local government legislative bodies with limited zoning requirements to have some control over the siting of proposed landfills and solid waste facilities. If this ordinance is adopted it would require that public notice be given to inform interested persons in the area of a proposed landfill, waste processing facility, or waste disposal facility, and that interested persons be given the opportunity to request that the local legislative body hold a public hearing prior to taking action on the matter. If adopted, this ordinance would require the Council to approve the siting of all landfills, solid waste disposal facilities, and solid waste processing facilities before a state permit for the facility could be issued and construction commenced.

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**ORDINANCE NO. BL2003-3** (continued)

The Jackson Law does not expressly define the terms “waste processing facility” and “waste disposal facility”, though the terms are defined in the Tennessee Solid Waste Act. “Solid waste disposal” is defined under the Act as “the process of permanently or indefinitely placing, confining, compacting, or covering solid waste.” “Solid waste processing” is defined as “any process that modifies the characteristics or properties of solid waste, including but not limited to, treatment, incineration, composting, separation, grinding, shredding, and volume reduction; provided, that it does not include the grinding or shredding of landscaping or land clearing wastes or unpainted, unstained, and untreated wood into mulch or other useful products.” According to a decision by the Tennessee Court of Appeals in *Profill Development, Inc. v. Dills*, a recycling facility that falls within the definition of “solid waste processing facility” is covered by the provisions of the Jackson Law and requires local government approval. The *Profill* case also clarified that both public and private permit applicants must obtain local legislative approval if the municipality has opted into the provisions of the Jackson Law.

The Metropolitan Code of Laws already requires that all requests for special exceptions, including sanitary landfills and waste transfer facilities, be approved by resolution of the Metropolitan Council prior to consideration by the board of zoning appeals. The Council Office contacted the state department of environment and conservation to obtain some clarification as to the types of facilities to which the Jackson Law would apply. The department indicated that the Jackson Law would be applicable to a recycling center that fell within the definition of “waste processing facility”, but a collection center would not. The Metro Zoning Code defines “collection center” as “a facility which is staffed and fenced that has waste receptacles on site that are open to the public, when an attendant is present, to receive household waste, municipal solid waste and recyclable material.”

Based on the interpretation of the above definitions, the Jackson Law would apply to facilities such as sanitary landfills, construction and demolition landfills, recycling centers that reduce the volume of or separate waste, and waste transfer stations that sort and separate waste. Representatives from the state department of environment and conservation also informed the public works committee on May 20, 2003, that recycling facilities such as Rivergate Recycling that are not required to obtain a state permit would not require Metro approval if the provisions of the Jackson Law are adopted. The Jackson Law would not apply to landfills that already have a state permit and are in operation unless the facility sought to enlarge its size by lateral expansion or new construction.

State law requires that this ordinance be adopted by a two-thirds majority vote of the council (27 votes) prior to its adoption on third reading. An identical bill to adopt the provisions of the Jackson Law was pending with the Council for several months in 2003 before it was withdrawn by its sponsor.

**ORDINANCE NO. BL2003-14** (BROWN & GILMORE) – This ordinance authorizes the Metropolitan Government to enter into a licensing agreement with Wal-Mart Stores East, LP, allowing the department of public works to place 14 recycling bins at the Wal-Mart parking lot located at 4101 Lebanon Pike in Hermitage. The term of this agreement is for one-year, but a new licensing agreement may be entered into after the one-year period for a longer term subject to Council approval. Metro will not be required to pay any rent to place the recycling bins at the Wal-Mart store, but is required to maintain the premises in a reasonably clean condition. If Metro fails to clean up debris within five days of receiving notice, Wal-Mart may clean the premises and bill Metro for the costs incurred.

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**ORDINANCE NO. BL2003-14** (continued)

This license agreement also requires Metro to maintain a \$2,000,000 personal injury and property damage insurance policy and a \$1,000,000 worker's compensation insurance policy. The license agreement makes no mention of the Metropolitan Government's self-insured status or the applicability of the Governmental Tort Liability Act to Metro's actions or omissions. The Council Office is of the opinion that the Council should not approve such an agreement requiring Metro, by contract, to furnish a certificate of public liability insurance under these circumstances.

This ordinance provides that amendments to this agreement or future agreements with Wal-Mart Stores for the placement of recycling bins may be approved by resolution receiving 21 affirmative votes.

This ordinance has been approved by the planning commission.

There is a proposed amendment that corrects the insurance issues in the original license.

**ORDINANCE NO. BL2003-38** (WALLACE) – This ordinance amends the Metropolitan Code of Laws to require only that street vendors be in possession of, but not wear, their identification badges issued by the Davidson County Clerk. The Code requires all street vendors to obtain a permit from the County Clerk upon meeting certain criteria and payment of a fee in order to be allowed to sell merchandise on the streets and sidewalks of the Metropolitan Government. The County Clerk issues identification badges to all street vendors and the Code requires that they be worn at all times. This ordinance would amend the Code to require only that street vendors and their employees be in possession of the I.D. badges at all times.

**ORDINANCE NO. BL2003-46** (SUMMERS) – This ordinance authorizes the director of public property administration to acquire easements to four parcels of property by negotiation or condemnation for the purpose of constructing water mains, sanitary sewers, reservoirs, and stormwater improvements in connection with the Lauderdale Road public utility drainage project. The estimated cost for the easements is \$6,000 and will be paid from the stormwater fund. The parcels of property for which easements are to be acquired include 4203 and 4205 Aberdeen Road, and 237 and 239 Lauderdale Road. Future amendments to this ordinance may be approved by resolution.

The planning commission has approved this ordinance.

**ORDINANCE NO. BL2003-47** (GREER) – This ordinance closes and renames a portion of Argyle Avenue. This ordinance closes Argyle Avenue between the intersections of Beech Avenue and Alley #661. All easements are to be retained by the Metropolitan Government. This ordinance also renames the portion of Argyle Avenue between Hillside Avenue and Beech Avenue as "West Argyle Avenue", and renames the portion of Argyle Avenue between Alley #661 and Ridley Boulevard as "East Argyle Avenue".

Notification has been sent by the planning commission to the affected property owners.

This ordinance was disapproved by the planning commission, but approved by the traffic and parking commission and the ECD board.

**ORDINANCE NO. BL2003-57** (NEIGHBORS & GILMORE) – This ordinance authorizes the department of finance to accept donations to be used by the caring for children program. Any funds accepted pursuant to this ordinance would be deposited into a special account established to receive such funds to be appropriated for use by the caring for children program. The ordinance incorporates certain guidelines for use of donations to the caring for children program. Pursuant to these guidelines, donations are to be used for food, clothing, baby supplies, Christmas gifts for families, Thanksgiving food boxes, school supplies, household supplies, transportation assistance, and other “items of a similar nature”.

Section 2.01 of the Metropolitan Charter gives the power to the Metropolitan Government to “accept or refuse gifts, donations, bequests or grants from any source for any purpose related to the powers and duties of the metropolitan government.” Section 3.06 of the Charter provides that the Council is authorized to legislate with respect to the powers granted by Article 2 of the Charter, and Section 3.05 provides that the Council shall exercise its legislative authority only by ordinance, except as otherwise provided by the Charter or by general law. Allowing the finance department to accept donations without Council approval would be a departure from the traditional authority exercised by the Council.

This ordinance should be amended so that the enactment clause reads “be it enacted by the Council” instead of “be it resolved”, as this is an ordinance not a resolution. The Council Office further recommends that this ordinance be amended to require that such donations to be approved by Resolution of the Metropolitan Council.

**ORDINANCE NO. BL2003-58** (NEIGHBORS) – This ordinance amends the employee benefit section of the Metropolitan Code of Laws to authorize an “in-line-of-duty medical treatment network” pilot program. The Code currently provides that the employee benefit board is authorized to establish a panel of pre-approved medical providers to furnish treatment for in-line-of-duty injuries to be known as the “in-line-of-duty medical treatment network”, if the employee benefit board determines that it is financially feasible to do so. The Code provides that once such a network is established, medical care benefits (health insurance) will no longer cover work-related injuries, but such injuries will be covered by Metro through the network. This provision is similar to the workers’ compensation laws applicable to private employers whereby an employer may furnish an injured employee with a list of three or more doctors from which the employee may select for treatment.

This ordinance amends the Code to authorize the “in-line-of-duty medical treatment network” as a pilot program for a two-year period. At the end of the two-year period, the pilot program will terminate and the benefit board will determine whether to continue the network. If the network is continued after the two-year pilot period, then medical care benefits will no longer cover work-related injuries.

The employee benefit board has approved starting the “in-line-of-duty medical treatment network” as a pilot program.

**ORDINANCE NO. BL2003-59** (DREAD) – This ordinance amends the Metropolitan Code of Laws to allow liquor sales at retail locations on collector streets. The Code currently limits the location of liquor stores to commercial areas within the urban services district. The Code further limits such locations to those that have principal access to an existing major street or road as shown on the major street plan. This ordinance would allow liquor stores at locations with a principal access to a collector street as well.

There is a housekeeping amendment for this ordinance that clarifies the section number of the Code to be amended.

**ORDINANCE NO. BL2003-60** (WHITE & GILMORE) – This ordinance authorizes the director of public property administration to acquire property interests to fifteen parcels of property, by negotiation or condemnation, in connection with the Stewarts Ferry Pike at McCampbell Avenue intersection improvements. The intersection improvements to be made consist of realignment of McCampbell Avenue, traffic signals at the intersection, the addition of turn lanes on both roads, and the installation of sidewalks. The funds for this project are to be provided from the GSD multi-purpose improvement bonds of 2001.

This ordinance has not been considered by the planning commission.

**ORDINANCE NO. BL2003-61** (WALLACE) – This ordinance abandons and relocates a portion of a sewer line and easement on property owned by Frank May located between 1<sup>st</sup> Avenue South and 2<sup>nd</sup> Avenue South. The existing sewer line and accompanying easement are no longer being used by the department of water and sewerage services. This abandonment is conditioned upon the installation and acceptance by Metro water and sewer of the proposed relocation. Any future amendments to this ordinance may be approved by resolution.

The Council Office is of the opinion that the caption of this ordinance is inadequate. This ordinance may need to be withdrawn and a new ordinance filed. The Council Office further recommends that the department of water and sewerage services modify their template for such ordinances to provide that amendments may be “approved by Resolution of the Metropolitan Council” rather than “processed by Resolution”.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2003-62** (WALLACE) – This ordinance increases an easement located at 1600 Second Avenue North west of Cement Plant Road. The ordinance provides that the department of water and sewerage services is requesting that an existing utility easement be increased by 300 feet to allow for the expansion of an existing gas pipeline. The ordinance further provides that Colonial Pipeline Company has requested Metro to increase their easement to allow for this expansion, and that Metro agrees to accept \$1,000 from Colonial Pipeline Company for the granting of this easement.

The Council Office is of the opinion that this ordinance is flawed and should not be adopted by the Council. The body of the ordinance authorizes the Metropolitan Government to accept funds, which exceeds the scope of the caption. Moreover, the ordinance and the caption fail to adequately describe the real property interests involved and identify the (continued on next page)

**ORDINANCE NO. BL2003-62** (continued)

owner of the property encumbered by the easement. If the Council does elect to approve this ordinance, the ordinance should be amended to reflect that the street address of the property is 1600 Second Avenue North, not 100 Second Avenue North.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2003-63** (WALLACE) – This ordinance approves the adoption of the additions, deletions, and/or other amendments to the Official Street and Alley Acceptance and Maintenance Map for the Metropolitan Government. These amendments are submitted annually by the department of public works. The map shows the dedicated streets and alleys that were either accepted or abandoned for public maintenance by Metro. The map was last amended on December 17, 2002, by Ordinance No. BL2002-1248.

**ORDINANCE NO. BL2003-64** (ISABEL, NEIGHBORS & OTHERS) – This ordinance authorizes the mayor to submit a 2004 annual update to the consolidated plan for housing and community development programs for the Metropolitan Government to the U.S. department of housing and urban development (HUD). The current five year consolidated plan was prepared by the Metropolitan development and housing agency (MDHA) and adopted by the council in 1999. The plan is administered by MDHA and includes the allocation of funds received from HUD for community development block grants (CDBG), the HOME investment partnerships program (HOME), the emergency shelter grant program (ESG), and the housing opportunities for persons with AIDS (HOPWA). This 2004 consolidated plan update has been prepared by MDHA, in connection with other public and private agencies, to allocate funds from the above-mentioned programs.

Any property that may need to be acquired under any of these programs may only be acquired for public use and approved by ordinance, unless the owner consents in writing to sell the property for the program. The exercise of the power of eminent domain under the development plan is expressly reserved for the Metropolitan Council, except in the case of open projects approved by the council in accordance with state law. Additionally, all requested program expenditures must be approved by resolution of the Metropolitan Council. The program allocations under these various programs beginning April 1, 2004 through March 31, 2007 are attached at the end of the Analysis Report.

**CDBG** funds are based on entitlement funding in the amount of \$6,150,000, with program income of \$600,000 during the coming year. These CDBG funds are designated for affordable housing activities to provide matching funds and for neighborhood activity funds for youth initiative programs and community projects associated with storm water drainage, sidewalks, park improvements, and other localized needs. The youth initiatives program is a competitive grant program for non-profit agencies providing services to low to moderate-income youth during the summer. A large portion of the CDBG funds are targeted at specific residential neighborhood strategy areas (NSAs) and commercial district areas. The two commercial district target areas are the Buchanan Street and Murfreesboro Road commercial districts. CDBG funds are also used for neighborhood commercial revitalization, slum and blight removal, and rehabilitation low interest loans to eligible homeowners.

(continued on next page)

**ORDINANCE NO. BL2003-64** (continued)

**HOME** funds are to provide a mixture of owner-occupied and rental rehabilitation, new housing ownership programs, new multi-family housing opportunities, down payment assistance, and housing assistance through non-profit community housing development organizations (CHDOs). A required twenty-five percent local match must be provided from repayments of urban development action grants (UDAG). UDAGs are federal loans made to qualifying programs, essentially in the downtown area, which are repaid to the Metropolitan Government to be expended in approved programs that target persons living in pockets of poverty.

**ESG** funds are allocated to local homeless shelter providers to help cover operational expenses and essential services. Local matching funds required under this program must be provided by the local non-profits sub-grantees that participate in the program.

The **HOPWA** program provides housing related assistance for low-income persons with AIDS and their families.

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**- BILLS ON THIRD READING -**

**ORDINANCE NO. BL2003-6** (TUCKER, WILHOITE & TOLER) – This ordinance authorizes the acquisition of approximately 28 acres located in the Pettus Road area to be used for construction of a new Antioch Middle School and a future elementary school. This acquisition, by either negotiation or condemnation, has been approved by the board of public education. Metro has an option to purchase the property for \$900,000. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2003-31** (GILMORE) – This ordinance adopts the property identification maps for the Metropolitan Government identifying property as of January 1, 2003, as the official maps for the identification of real estate for tax assessment purposes. These maps are adopted on an annual basis.

**ORDINANCE NO. BL2003-32** (MCCLENDON) – This ordinance readopts the Metropolitan Code to include all ordinances enacted on or before May 20, 2003.

**ORDINANCE NO. BL2003-34** (GILMORE) – This ordinance authorizes the mayor's office of neighborhoods to accept cash donations and to appropriate sponsorship money that has been received into the general fund for the purpose of underwriting the costs of the "Celebrating Neighborhoods" conference. Fourteen private companies and nonprofit organizations have pledged a total of \$25,300 to help underwrite the costs of the conference. Pursuant to this ordinance, these cash donations will be appropriated to the office of neighborhoods fund once they are received. The funds pledged by each donor are as follows:

<b>ORGANIZATION</b>	<b>AMOUNT</b>
Delta Dental Plan of TN	\$500.00
W.L. Hailey & Company	\$3,500.00
BellSouth	\$1,000.00
Stringfellow, Inc.	\$500.00
Nashville Electric Service	\$4,000.00
Nashville Gas	\$1,000.00
Insituform Technologies, Inc.	\$5,000.00
Fisk University	\$100.00
USInfrastructure, Inc.	\$5,000.00
Metropolitan Development and Housing Agency	\$2,000.00
Stansell Electric Co., Inc.	\$100.00
The District	\$500.00
United Way of Metropolitan Nashville	\$100.00
Roy T. Goodwin Contractors Inc.	\$2,000.00
<b>TOTAL</b>	<b>\$25,300.00</b>

**ORDINANCE NO. BL2003-35** (KERSTETTER & GILMORE) – This ordinance amends the Metropolitan Code of Laws regarding employee benefits to include certain new provisions to comply with federal law. As a result of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the Metro pension plan needs to be amended to reflect certain provisions in the federal law. These amendments are technical in nature and the actuaries employed by the Benefit Board have determined that the amendments have no real impact on the pension plan itself. The amendments reflect provisions in the EGTRRA related to maximum income and benefit levels that do not affect Metro employees or pensioners. Most of these federal law requirements apply to the private sector, but Metro's plan is required by federal law to be in compliance.

The Code change increases the maximum annual pension benefit that a pensioner could receive to \$160,000. However, there is no pensioner in the Metro system that is even near this maximum annual amount. Additionally, the amendment increases the maximum amount of compensation that can be used to determine pension benefits to \$200,000. But again, the Metro pay scales do not provide for compensation that would approach this maximum limit. The amendment also expands the ability to rollover pension plan distributions to other qualified retirement plans. This provision will have a negligible effect on the Metro pension plan because it would only apply to employee contributions, and Metro employees do not contribute to the Metro pension plan.

**ORDINANCE NO. BL2003-37** (WALLACE & JAMESON) – This ordinance approves a corrected deed conveying Metro's interest in two parcels of property to the Nashville & Eastern Railroad Authority in connection with the Gateway Boulevard project. Ordinance No. BL2002-1132 approved Metro's conveyance of property interests in two parcels of property. However, there was a material error in the property description in the deed that must be corrected prior to conveying the property. The original deed provided that the first parcel to be conveyed by Metro totaled approximately 220 square feet, when in reality the parcel is 25,982 square feet. This ordinance nullifies the prior deed approved by Ordinance No. BL2002-1132 and authorizes the director of public property administration to execute the new deed. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2003-39** (SHULMAN & JAMESON) – This ordinance amends the Metropolitan Code of Laws to require the director of codes administration to submit certain reports to the Council regarding permits issued, inspections made, and codes complaints. The Code of Laws currently requires the director of codes administration to prepare monthly reports regarding department receipts and expenditures, the number and classification of all employees, the number of permits issued, and the number of inspections made. This ordinance modifies and adds to these reporting requirements by including the following additional requirements:

1. The number of inspections made and action taken by the codes department by council districts; and
2. The number, by type location, and date filed, of any and all complaints to the department by council districts.

This ordinance also requires that this report be provided on a monthly basis to the respective district council members and to the councilmembers-at-large. There is a deferred effective date of July 1, 2004, for the provisions of this ordinance to allow adequate time for the department of codes administration to implement the necessary technology to prepare such reports.



**ORDINANCE NO. BL2003-40** (MCCLENDON) – This ordinance readopts the Metropolitan Code to include all ordinances enacted on or before August 19, 2003.

**ORDINANCE NO. BL2003-41** (GILMORE & WILHOITE) – This ordinance establishes the property tax relief program for low-income elderly residents of the Metropolitan Government for fiscal year 2003-2004. State law allows county legislative bodies to appropriate funds for such programs and establish guidelines for participation in the program and the disbursement of such funds. The Council appropriated \$841,800 in the current fiscal year's operating budget for a property tax relief program for the elderly. This ordinance authorizes the Metropolitan trustee to establish rules and procedures for implementation of the program and directs the trustee to disburse the funds accordingly to all eligible taxpayers. All persons who qualify for the state property tax relief program and whose income does not exceed \$12,530 annually will qualify for this program. As this budgetary appropriation is non-recurring funding, this program will expire on June 30, 2004.

**ORDINANCE NO. BL2003-42** (DREAD) – This ordinance changes the name of justice information system (JIS) to "justice integrated services". The justice information system was established by ordinance in 1992 for the stated purpose of improving "the administration of justice through the creation and operation of comprehensive integrated management systems and promulgate uniform standards." The ordinance states that the justice information system subcommittee approved this name change in order to better describe its mission.

**ORDINANCE NO. BL2003-43** (DREAD & GILMORE) – This ordinance approves the annual contract between the Metropolitan Government and the emergency communications district (ECD) relative to operation of the enhanced-911 service for fiscal year 2003-2004. This contract provides that Metro will operate the system through its emergency communications system. The department of public works will maintain an updated street and house number system, and the department of information systems will provide day-to-day staff and support services for the ECD board. Metro will also train its employees who will operate the system. The ECD is to pay the public works department \$4,826 for its services, and is to pay \$37,885 to the department of information technology systems for its services.

**ORDINANCE NO. BL2003-44** (RYMAN) – This ordinance authorizes RAM Partners, LLC, to install and maintain a sign in the public right-of-way located at 100 Riverchase Boulevard. RAM Partners, LLC, agrees to indemnify the Metropolitan Government from any claims arising from the installation and maintenance of the encroachment, and is required to maintain a \$300,000 certificate of public liability insurance naming the Metropolitan Government as additional insured.

This ordinance has been approved by the planning commission.

Plans are on file with the department of public works.

**ORDINANCE NO. BL2003-45** (SHULMAN) – This ordinance abandons and relocates an existing 8” sanitary sewer line and easement on property owned by Hammond and Brandt Builders in connection with the Observatory Drive, Green Hills Subdivision – Phase 1. This sewer line and easement is no longer being used by the department of water and sewerage services or any other public utility. Any future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2003-48** (ISABEL) – This ordinance abandons Alley #1065 between the properties of 1338 and 1324 Brick Church Pike. This closure has been requested by Charles Ray Raymer. All easements held by the Metropolitan Government are to be abandoned. This ordinance has been approved by the planning commission and the traffic and parking commission.

Consent of the property owners is on file with the planning commission.

Section 3 of this ordinance should be amended to simply state that all easements held by the Metropolitan Government regarding Alley # 1065 are hereby abandoned.

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